

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

BRIAN TINGLEY

Plaintiff,

v.

ROBERT W. FERGUSON, et al.,

Defendants.

NO. 3:21-cv-05359-RJB

JOINT DECLARATION OF
LISA M. DIAMOND AND
CLIFFORD J. ROSKY

Lisa M. Diamond and Clifford J. Rosky declare as follows:

1. Our names are Lisa M. Diamond and Clifford J. Rosky.

2. Lisa M. Diamond is a professor of developmental psychology at the University of Utah, where she has been teaching since 1999. She received a Ph.D. from Cornell University in 1999 in Human Development (i.e., developmental psychology). Her areas of specialty include the nature and development of affectional bonds and the nature and development of same-sex sexuality. A true and correct copy of Dr. Diamond's CV is attached as Exhibit A.

3. Clifford J. Rosky is a professor of law at the University of Utah, where he has been teaching since 2008. He received a J.D. from Yale Law School in 2001. His areas of specialty include constitutional law and civil rights. He participated in the drafting of Utah Administrative Code R156-60 and R156-61, which prohibit licensed mental health therapists from subjecting minors to sexual orientation and gender identity change efforts by defining it

1 as unprofessional conduct. A true and correct copy of Professor Rosky's CV is attached as
2 Exhibit B.

3 4. We have reviewed the papers submitted by the Plaintiff in support of the
4 Plaintiff's Motion for Preliminary Injunction in the above-referenced lawsuit. The Plaintiff and
5 the declarant Dr. Christopher Rosik cite our work numerous times in those papers, including a
6 paper we co-authored. *See* Lisa M. Diamond and Clifford J. Rosky, *Scrutinizing Immutability:
7 Research on Sexual Orientation and U.S. Legal Advocacy for Sexual Minorities*, 53 J. Sex Res.
8 363 (2016) (hereinafter *Scrutinizing Immutability*). A true and correct copy of this article is
9 attached as Exhibit C.

10 5. Counsel for the Plaintiff never requested that we serve as expert witnesses for
11 the Plaintiff in the above-referenced lawsuit. Had they done so, we would have said the same
12 thing we are saying here: Scientific evidence shows that sexual orientation change efforts are
13 psychologically damaging to children and adolescents, increasing their risk of self-harm and
14 suicide. Hence, they cannot be practiced ethically. This evidence-based conclusion
15 fundamentally undermines the Plaintiff's position.

16 6. We are providing these clarifications of our work on a scientific, evidence-
17 based basis. We do not have any other interest or involvement in this case. We have received
18 no compensation for providing this declaration.

19 7. The Plaintiff has misconstrued our work and made assertions that are not
20 supported by our work. Our work does not support the propositions for which the Plaintiff has
21 cited it. Specifically, in the following passage, which appears on pages 11 and 12 of the
22 Plaintiff's memorandum¹ in support of his Motion for Preliminary Injunction, the Plaintiff
23 quotes or cites several statements from our paper, *Scrutinizing Immutability*:
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25
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¹ This refers to the ECF-stamped page numbers.

Notably, internationally respected authors Professors Lisa Diamond and Clifford Rosky, who count themselves advocates for LGBTQ issues, reviewed the scientific literature in 2016 and concluded that “arguments based on the immutability of sexual orientation are unscientific, given that scientific research does not indicate that sexual orientation is uniformly biologically determined at birth or that patterns of same-sex and other-sex attractions remain fixed over the life course.” Instead, Diamond and Rosky reported that “Studies unequivocally demonstrate that same-sex and other-sex attractions do change over time in some individuals,” and that the evidence for this is now even ‘indisputable.’” (Rosik Decl. ¶¶ 17.) Indeed, Diamond and Rosky cite multiple longitudinal studies which found that many teens and young adults who initially experience some degree of same-sex attractions identified as exclusively heterosexual within a few years. (Rosik Decl. ¶¶ 22.)

8. The Plaintiff’s quotations from our paper are extremely misleading. In our paper, we specifically distinguished between “[o]ne line of evidence concern[ing] the propensity of individuals to wilfully modify their pattern of sexual orientation *through sexual orientation change efforts*, or SOCE (often characterized as ‘reparative therapy’),” and “[a] second line of evidence concern[ing] whether sexual orientation appears to undergo longitudinal change *on its own, outside the context of therapeutic efforts*.” *Scrutinizing Immutability*, 53 J. Sex Res. at 368 (emphasis added). In the passage quoted by the Plaintiff, we again distinguished between “[d]ata bearing on SOCE” and “data on ‘*naturally occurring*’ change”—i.e., “change that occurs *outside the context of SOCE*.” *Id.* We separately analyzed each type of data.

9. With respect to the “data bearing on SOCE,” our conclusion was exceptionally clear: “SOCE are not only ineffective in changing sexual orientation but are psychologically damaging, often resulting in elevated rates of depression, anxiety, and suicidality.” 53 J. Sex Res. at 368 (citing American Psychological Association (APA) Task Force on Appropriate Therapeutic Responses to Sexual Orientation, 2009). We also stated, drawing from the 2009 APA Task Force report, that “therapists cannot ethically offer individuals the promise of

1 changing their sexual orientation, given the lack of evidence that such permanent change can be
2 therapeutically achieved.” *Id.*

3 10. By contrast, the statements quoted by the Plaintiff were not about SOCE. As we
4 further explained in the same paragraph quoted by the Plaintiff, these statements were about
5 “change that occurs *outside the context of SOCE*”—“data on ‘*naturally occurring*’ change to
6 sexual orientation [that] come from studies that have longitudinally tracked large, population-
7 based samples of heterosexual and sexual-minority individuals.” 53 J. Sex Res. at 368 (emphasis
8 added). The data from these studies do not include any information about SOCE. They have no
9 bearing on the efficacy of SOCE at all.

10 11. In light of our paper’s clear statement that SOCE is both “ineffective” and
11 “damaging,” our paper, *Scrutinizing Immutability*, does not support the Plaintiff’s position in
12 this case. On the contrary, it undermines and contradicts the Plaintiff’s claims. Our statement
13 that SOCE is “ineffective” and “damaging” is fully consistent with the Washington State
14 Legislature’s finding that “conversion therapy” causes “serious harms.” S.B. 5722, § 1(2), 65th
15 Legislature (2018 Regular Session), *enacted as* 2018 Wash. Sess. Laws, ch. 300.

16 12. Since our paper was published, several peer-reviewed studies have specifically
17 found that the practice of SOCE and gender identity change efforts (GICE) on lesbian, gay,
18 bisexual, and transgender (LGBT) minors is strongly correlated with anxiety, depression, and
19 suicidality.

20 13. In 2018, Dr. Caitlyn Ryan et al. published *Parent-Initiated Sexual Orientation*
21 *Change Efforts With LGBT Adolescents: Implications for Young Adult Mental Health and*
22 *Adjustment*, Journal of Homosexuality, (2018) 67:2, 159-173, [https://doi.org/10.1080/](https://doi.org/10.1080/00918369.2018.1538407)
23 [00918369.2018.1538407](https://doi.org/10.1080/00918369.2018.1538407). In this paper, Ryan et al. found that 62.8% of lesbian, gay, and
24 bisexual minors who had been subjected to “external conversion efforts” had attempted
25 suicide—a rate nearly three times higher than other lesbian, gay, and bisexual minors. *Id.* at 168.
26

1 This finding was statistically significant, with a p value of less than .001. *Id.* A true and correct
2 copy of this article is attached as Exhibit D.

3 14. In 2019, Dr. Jack Turban et al. published *Association Between Recalled Exposure*
4 *to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among*
5 *Transgender Adults*, JAMA Psychiatry, (2019) 77(1):68-76, [doi:10.1001/](https://doi.org/10.1001/jamapsychiatry.2019.2285)
6 [jamapsychiatry.2019.2285](https://doi.org/10.1001/jamapsychiatry.2019.2285). In this paper, Turban et al. found that “lifetime exposure to GICE
7 was significantly associated with multiple adverse outcomes, including . . . lifetime suicide
8 attempts.” *Id.* at 73. With respect to minors, the study specifically found that “exposure to GICE
9 before age 10 years was significantly associated with several measures of suicidality, including
10 lifetime suicide attempts.” *Id.* Again, the study found that more than 60% of transgender minors
11 subjected to GICE before age 10 attempted suicide. *Id.* at 74. Both of these findings were
12 statistically significant, with a p value of less than .001. A true and correct copy of this article is
13 attached as Exhibit E.

14 15. In 2020, Dr. Amy Green et al. published *Self-Reported Conversion Efforts and*
15 *Suicidality Among US LGBTQ Youths and Young Adults*, American Journal of Public Health,
16 (2020) 110(8):1221-1227, [doi: 10.2105/AJPH.2020.305701](https://doi.org/10.2105/AJPH.2020.305701). In this study, Green et al. found that
17 “[r]elative to young people who had not experienced SOGICE, those [young people] who
18 reported undergoing SOGICE were more than twice as likely to report having attempted suicide
19 and having multiple suicide attempts in the preceding year.” *Id.* at 1224. Both of these finding
20 were statistically significant, with a p value of less than .001. *Id.* A true and correct copy of this
21 article is attached as Exhibit F.

22 16. In February 2021, the APA adopted the *Resolution on Sexual Orientation Change*
23 *Efforts*, available at: [https://www.apa.org/about/policy/resolution-sexual-orientation-change-](https://www.apa.org/about/policy/resolution-sexual-orientation-change-efforts.pdf)
24 [efforts.pdf](https://www.apa.org/about/policy/resolution-sexual-orientation-change-efforts.pdf). With respect to SOCE, the APA found that “[t]he research on SOCE published since
25 APA’s (2009) task force report and resolution has continued to support the conclusions that
26 former participants in SOCE look back on those experiences as harmful to them and that there

1 is no evidence of sexual orientation change.” *Id.* at 3. A true and correct copy of the resolution
2 is attached as Exhibit G.

3 17. The APA also noted that SOCE proponents “ha[ve] inaccurately applied evidence
4 of sexual fluidity across the lifespan by distorting sexual fluidity as a justification for SOCE.”
5 Ex. G. at 3 (citing Diamond and Rosky, 2016). As the APA’s Resolution aptly explained: “Rather
6 than willful shifts in sexual orientation, fluidity describes changes in awareness, attractions,
7 behaviors, and identities that unfold over time[.] However, that sexual orientation can evolve
8 and change for some does not mean that it can be altered through intervention or that it is
9 advisable to try.” *Id.* (internal citation omitted).

10 18. We agree. As supported by recent peer-reviewed studies finding that SOCE is
11 strongly correlated with suicidality among minors, we continue to stand by our paper’s original
12 statement: “SOCE are not only ineffective in changing sexual orientation but are psychologically
13 damaging, often resulting in elevated rates of depression, anxiety, and suicidality.” *Scrutinizing*
14 *Immutability*, 53 J. Sex Res. at 368.


15
16 I declare under penalty of perjury under the laws of the United States that the foregoing
17 is true and correct.

18 DATE this 22 day of June 2021, at Salt Lake City, Utah.

19
20 
Lisa M. Diamond

21 I declare under penalty of perjury under the laws of the United States that the foregoing
22 is true and correct.

23 DATE this 21st day of June 2021, at Salt Lake City, Utah.

24
25 
Clifford J. Rosky

DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will send notification to all counsel of record.

DATED this 25th day of June 2021, at Seattle, Washington.

/s/ Brendan Selby

BRENDAN SELBY, WSBA #55325

Assistant Attorney General